

Attorney Docket No. 1014-065US01/TNP-0309

SHUMAKER &amp; SIEFFERT, P.A.

United States Patent Application

## COMBINED DECLARATION AND POWER OF ATTORNEY

As a below named inventor I hereby declare that my residence, post office address and citizenship are as stated below next to my name, and that I believe I am an original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled: CONTROLLING DATA LINK LAYER ELEMENTS WITH NETWORK LAYER ELEMENTS

The specification of which

- a. ☐ is attached hereto  
b. ☒ was filed on June 20, 2003 as application serial no. 10/601,131 and was amended on (if applicable) or  
c. ☐ was (in the case of a PCT-filed application) described and claimed in international no. filed and as amended on (if any), which I have reviewed and for which I solicit a United States patent.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information, which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, § 1.56 (attached hereto).

I hereby claim foreign priority benefits under Title 35, United States Code, § 119/365 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on the basis of which priority is claimed:

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b. ☐ such applications have been filed as follows:

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I hereby appoint Practitioners at Customer Number 28863 and the following Practitioners



28863

PATENT TRADEMARK OFFICE

Steven J. Shumaker	Reg. No. 36,275	Daniel J. Hanson	Reg. No. 46,757
Kent J. Sieffert	Reg. No. 41,312	Kelly P. Fitzgerald	Reg. No. 46,326
Jason D. Kelly	Reg. No. 54,213	David L. Clark	Reg. No. 37,082
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Please direct all correspondence in this case to:

SHUMAKER & SIEFFERT, P.A.  
8425 Seasons Parkway, Suite 105  
St. Paul, Minnesota 55125  
Telephone: 651.735.1100  
Facsimile: 651.735.1102

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full Name Of Inventor	Family Name Kokot	First Given Name Mathias	Second Given Name
Residence & Citizenship	City Medford	State or Foreign Country Massachusetts	Country of Citizenship Germany
Post Office Address	Post Office Address 9 Clewley Road	City Medford	State & Zip Code/Country MA 01255/USA
Signature of Inventor:			Date:

Full Name Of Inventor	Family Name Rodler	First Given Name Hermann	Second Given Name
Residence & Citizenship	City Oberhaching	State or Foreign Country Germany	Country of Citizenship Germany
Post Office Address	Post Office Address Munster Strasse 29 F	City Oberhaching	State & Zip Code/Country 82041 Germany
Signature of Inventor: <i>Hermann Rodler</i>			Date: 11/18/03

Full Name Of Inventor	Family Name Melden	First Given Name Kurt	Second Given Name
Residence & Citizenship	City Manchester	State or Foreign Country Massachusetts	Country of Citizenship USA
Post Office Address	Post Office Address 42 Mascotom Street	City Manchester	State & Zip Code/Country MA 01944/USA
Signature of Inventor:			Date:

Full Name Of Inventor	Family Name Moisan	First Given Name Jerome	Second Given Name
Residence & Citizenship	City Arlington	State or Foreign Country Massachusetts	Country of Citizenship France
Post Office Address	Post Office Address 31 Hawthorne Avenue	City Arlington	State & Zip Code/Country MA 02476/USA
Signature of Inventor:			Date:

Full Name Of Inventor	Family Name Gemmer	First Given Name Thomas	Second Given Name
Residence & Citizenship	City München	State or Foreign Country Germany	Country of Citizenship Germany
Post Office Address	Post Office Address Hofangerstr. 130	City München	State & Zip Code/Country 81735 Germany
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**§ 1.56 Duty to disclose information material to patentability.**

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or

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- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.
- (d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

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Full Name Of Inventor	Family Name Gemmer	First Given Name Thomas	Second Given Name
Residence & Citizenship	City München	State or Foreign Country Germany	Country of Citizenship Germany
Post Office Address	Post Office Address Hofangerstr. 130	City München	State & Zip Code/Country 81735 Germany
Signature of Inventor: <i>Thomas Gemmer</i>			Date: <i>October 28th, 2003</i>

**§ 1.56. Duty to disclose information material to patentability.**

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Full Name Of Inventor	Family Name Melden	First Given Name Kurt	Second Given Name
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Signature of Inventor: <i>[Signature]</i>			Date: 11-16-03

Full Name Of Inventor	Family Name Moisand	First Given Name Jerome	Second Given Name
Residence & Citizenship	City Arlington	State or Foreign Country Massachusetts	Country of Citizenship France
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Full Name Of Inventor	Family Name Geminer	First Given Name Thomas	Second Given Name
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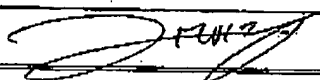
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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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# **§ 1.56 Duty to disclose information material to patentability.**

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
  - (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.
- (b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim;
- or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
    - (i) Opposing an argument of unpatentability relied on by the Office, or
    - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

- (c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:
- (1) Each inventor named in the application;
  - (2) Each attorney or agent who prepares or prosecutes the application; and
  - (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.
- (d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.